

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
(Northern Division)**

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| COLOMBO BANK, F.S.B., | : | |
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| Appellant, | : | |
| vs. | : | Civil No. WDQ-02-4010 |
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| CHARLES B. GOLDSTEIN, | : | |
| Chapter 7 Trustee of the Estate of | : | |
| Maryland Property Associates, Inc., et al. | : | |
| | : | |
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| Appellee. | : | |
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**MOTION TO WAIVE SUPERSEDEAS
AND STAY EXECUTION PENDING APPEAL**

The defendant Colombo Bank, F.S.B. (hereafter “Colombo Bank”) hereby moves the court pursuant to Fed. R. Civ. P. Rule 62(d) to waive the giving of a supersedeas and to stay execution pending appeal in this matter and states as follows:

1. The plaintiff Charles R. Goldstein, Chapter 7 Trustee in the above captioned proceedings (hereafter “the Trustee”), commenced an adversary proceeding against Colombo Bank in the United States Bankruptcy Court for the District of Maryland, Baltimore Division, seeking to recover alleged preferential transfers and fraudulent conveyances.
2. By order entered October 16, 2002, the Trustee obtained judgment in the adversary proceeding in the bankruptcy court in the amount of \$444,523.89, plus interest.
3. Colombo Bank filed a notice of appeal to this Court and briefing of the appeal ensued.

4. By order dated October 28, 2002, the bankruptcy court stayed execution of the October 16, 2002 judgment and waived the requirement of a supersedeas bond while the appeal was pending in this Court.

5. By order dated July 17, 2003, this Court reversed certain portions of the October 16, 2002 judgment and remanded certain other portions for further proceedings. Upon a motion for rehearing by the Trustee, this Court changed its ruling and by order dated August 29, 2003 affirmed a portion of the October 16, 2002 order that it had previously reversed, affirming the bankruptcy court's judgment against Colombo Bank in the approximate amount of \$238,000.

6. Colombo Bank has appealed this Court's ruling to the United States Court of Appeals for the Fourth Circuit.

7. It is requested that the Court waive the giving of supersedeas and stay execution of the August 29, 2003 order pending the appeal in this matter, for the reasons set forth in the accompanying memorandum in support.

8. A proposed order is attached to this Motion.

WHEREFORE, in consideration of the foregoing, the defendant Colombo Bank, F.S.B. respectfully requests that the Court enter an order waiving the giving of supersedeas, staying execution pending appeal and granting such further relief as the court deems just and proper.

Date: September 26, 2003.

Respectfully submitted,

DECKELBAUM, OGENS & RAFTERY,
CHTD.

By: /s/ Stephen Nichols

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